

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2022-164-E - ORDER NO. 2022-408

JUNE 8, 2022

IN RE:	Application of Duke Energy Progress, LLC)	ORDER GRANTING
	for Approval of the Transfer and Sale of)	APPROVAL FOR THE
	Property in Asheville, North Carolina)	TRANSFER AND SALE OF
)	PROPERTY

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the application of Duke Energy Progress, LLC (“DEP” or the “Company”) for approval to sell real property located in Asheville, North Carolina (the “Property”). DEP asserts the Property is a parcel of land containing 15.620 acres and is comprised of 43 separate but adjoining lots in Buncombe County, North Carolina. DEP has a contract to sell the land to a corporation for \$6,500,000, an amount consistent with the appraised value of the land.

II. FACTS AND PROCEDURAL HISTORY

DEP filed its application with the Commission on May 4, 2022, pursuant to section 58-27-1300 of the South Carolina Code of Laws (2015) and regulation 103-823 of the South Carolina Code of State Regulations (2012), seeking the Commission’s approval of the proposed sale. The Property is located off of Hill Street in Buncombe County, North Carolina, and the contract is with BSMART Development, LLC (“BSMART”). DEP’s application contains an appraisal of the Property.

In correspondence filed with the Commission on May 13, 2022, the South Carolina Office of Regulatory Staff (“ORS”) notified the Commission it had reviewed the application of DEP to sell the Property, the appraisal, the requirements of the Code, and prior filings by DEP regarding the sale of the Property. ORS stated it “does not object to the Company’s request for approval to sell the Property.” (ORS correspondence of May 13, 2022, p. 2).

On May 19, 2021, this matter came before the Commission at a business meeting. The Commission issued a Directive, approving the transfer and sale of the Property in this docket.

III. EVIDENCE OF RECORD

As part of its application, DEP explains the Property “was acquired by the Company on December 18, 2014” and “is surplus” property (Application, p. 2.) Accordingly, the Property is not required for the Company’s current utility operations. The Property is zoned as “UV – Urban Village District and RM-8 – Residential Multi-Family Medium Density District,” by the city of Asheville. (Application, pp. 2-3.) DEP provided a detailed valuation report by a certified real estate appraiser, Cushman & Wakefield, indicating the sale price is in keeping with the appraised value.

The appraisal was prepared on February 20, 2022, “in accordance with the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation.” (Application, Exhibit B). According to the appraisal, the market value of the property is \$6,010,000 (Application, p. 2; Exhibit B). The Company’s application states the property has a current net book value of \$5,301,322.00. (Application, p. 2)

According to the application, “[t]he original cost of the [p]roperty being sold will be credited as a reduction of the amount carried upon the books of DEP under Account 101, ‘Electric Plant in Service.’” (Application, p. 3). If approved, “[t]he difference between the sales price and the original cost of the non-depreciable [p]roperty will be applied to Account 421.10, ‘Gain on Disposition of Property.’” *Id.*

ORS reviewed the application and notified the Commission it did not object to DEP’s request for approval to sell the property.

IV. APPLICABLE LAW

The Commission has the authority to regulate and supervise the sale of utility property by electric utilities:

The Commission as provided for by the South Carolina Constitution and as vested with power and jurisdiction by the South Carolina General Assembly, performs the following general functions:

A. Regulation and supervision of the privately-owned electric utilities as to rates, charges, services, facilities, practices, accounting procedures, the purchase, sale or lease of utility property and the issuance of securities...

S.C. Code Ann. Regs. 103-810 (2012).

“The commission may, upon petition: (1) ascertain and fix just and reasonable standards, classifications, regulations, practices, or service to be furnished, imposed, observed, and followed by any or all electrical utilities....” S.C. Code Ann. § 58-27-140 (2015). “Applications are submitted to the Commission for any authorization or permission which the Commission is empowered to grant under its statutory authority ...” S.C. Code Ann. Regs. 103-823.

Section 58-27-1300 of the South Carolina Code of Laws requires electric utilities to obtain approval from the Commission when they seek to "sell, assign, transfer, lease, consolidate, or merge its utility property" with a fair market value in excess of one million dollars (\$1,000,000). Section 58-27-1300 provides as follows:

No electrical utility, without the approval of the commission and compliance with all other existing requirements of the laws of the State in relation thereto, may sell, assign, transfer, lease, consolidate, or merge its utility property, powers, franchises, or privileges, or any of them, except that any electrical utility which has utility property, the fair market value of which is one million dollars or less, may sell, assign, transfer, lease, consolidate, or merge this property without prior approval of the commission. The commission may, at its discretion, hold a hearing on the request of an electrical utility to sell, assign, transfer, lease, consolidate, or merge its utility property, powers, franchises, or privileges, or any of them. An electric utility seeking approval of a transfer under this provision shall serve a copy of the application on the Office of Regulatory Staff. For purposes of this section, "utility property" shall include property used and useful to provide customers with electric service and which has been properly included in the electric utility's rate base, including construction work in progress or property held to serve future customers. Utility property that has been transferred to nonutility accounts must continue to be treated as utility property under this provision for five years following the transfer.

S.C. Code Ann. § 58-27-1300 (2015).

V. FINDINGS OF FACT

1. The Commission has the authority to regulate and supervise the sale of utility property by an electric utility. DEP appropriately sought Commission approval of the proposed sale of the property that is the subject of this request.

2. The property DEP requests approval to sell is valued at more than one million dollars.

3. The sale of the 15.620-acre property “will not affect DEP’s ability to provide reliable service to its customers at just and reasonable rates” and “is surplus,” as stated by DEP in its application. (Application, p. 2).

4. DEP entered into a contract with BSMART Development, LLC, to sell the property for \$6,500,000. We find the sale price reasonable based on the report of the certified general real estate appraiser set forth in the application. (Application, pp. 2-59).

5. DEP established in its application “[t]he original cost of the [p]roperty being sold will be credited as a reduction of the amount carried upon the books of DEP under Account 101, ‘Electric Plant in Service.’ The difference between the sales price and the original cost of the non-depreciable [p]roperty will be applied to Account 421.10, ‘Gain on Disposition of Property.’” (Application, p. 3).

6. ORS reviewed the application of DEP and has no objection. (ORS correspondence dated May 13, 2022).

VI. CONCLUSIONS OF LAW

1. The Commission has the power and jurisdiction to regulate and supervise the sale of utility property by DEP pursuant to South Carolina Code of State Regulations 103-810 (2012) and South Carolina Code of Laws section 58-27-1300 (2015).

2. The Commission approves the sale as set forth in this application pursuant to section 58-27-1300 of the South Carolina Code of Laws.


VII. ORDERING PARAGRAPHS

IT IS THEREFORE ORDERED:

1. The Application of Duke Energy Progress, LLC seeking Commission approval of the transfer and sale of property located in Asheville, North Carolina, as set forth in this docket, is granted.
2. DEP shall account for the sale as set forth in its application.
3. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:





Florence P. Belser, Vice Chair
Public Service Commission of
South Carolina